



Corporate Office: 35 Plains Road • Essex, Connecticut 06426 • Telephone: (860) 767-4414
Mailing Address: P.O. Box 950 • Essex, Connecticut 06426

TO the Honorable State Banking Committee Members:

BILL no. 6355

Thank you for allowing me to comment on the "Homeowner Protection Rights" legislation (Bill No. 6355).

Overall, this bill does not meet the goal of speeding up and fairly alleviating the foreclosure conditions in the State of Connecticut in fact does the opposite in multiple ways to the extreme detriment of all of the community banks and others in CT whose primary concern it is to try to work with borrowers. As proposed this bill will reduce values of all homes. It constricts the ability to enforce contracts for loans signed by both parties who entered the transaction with full legal representation. The current process today is already very stringent and inefficient from the lenders' perspective with eight months of mediation availability in a judicial state which at least attempts to cap the process. This bill fails to recognize the added burdens carried solely by a lender when a borrower cannot pay--the carrying cost of interest, insurance costs; and leads to disrepair issues. Loans range with down payments by borrowers on the financing from an appropriate 20% to FHA loans of 3%. Yet, there is no consideration given in the mediation process for the lender who has invested anywhere from 80 – 97% of the loan proceeds and because of market conditions in many cases the borrower has little of their own equity to lose. This bill minimizes the standing of the lender who has the lion's share of the funds at risk. Appropriate mediation requires both parties coming to the bargaining table with something to give up. How can a lender bear the potential burden that this bill proposes when the 8 month cap of mediation is removed allowing the proceedings to revert to costly continued litigation where bankruptcy protections for the borrower could commence to forestall the foreclosure under current laws for years.

Lenders seek to discuss loan delinquencies and resolve issues early once an issue presents itself. A sample cash flow analysis, financial statement review and debt to income review will make it clear whether there is a chance of resolution. Under the current rules, many banks try to do a deed in lieu and waive the forgiven amount due to avoid the current protracted process in Connecticut. Further, the cost of foreclosure and the time it takes to bring the property back to market is expensive. If the lender or servicer is unable to fix up the potentially blighted property, there are negative impacts to the neighborhood's home values. This bill requires banks to bear the brunt of an open-ended, unlimited, mediation cost. If you couple this along with the other costs incurred and the potential of taking losses on the loan, this bill is harshly punitive to the lenders, saddling lenders with an inefficient mediation process that in most cases will be endless. Not only does the lender pay when the judge allows the borrower extra time when they fail to

bring a financial statement in a timely manner, perhaps look for a job after six months of already looking for a job and numerous other reasons that fail to bring the mediation to a conclusion. The information the judge seeks was asked for by the lender months ahead of the mediation process.

Mediation puts all litigation in a standstill position. The provisions in this bill to allow for "Good Faith Standards" are unfairly lopsided and targeted against lenders and servicer's of loans. The bills potential sanctions are with malice and destroy the good faith of a borrower for taking money and promising to pay it back to a lender over the terms of contract. Further litigation doors will fly open and overwhelm the courts, placing further burden on the foreclosure system creating an indefinite standstill that would take many years to even get rid of the most obvious frivolous cases. This bill multiplies the defenses to what Plato would say – "to the excess." If passed, lending will be more expensive in CT and many may abandon the business. It was recently announced that the Federal regulator of Fannie Mae and Freddie Mac is looking at judicial states such as Connecticut with a plan to add extra fees where foreclosures take the longest. This will affect all borrowers who wish to finance loans in our state due to the protracted time with our current program. It is clear that this bill will extend the process and once Fannie and Freddie learn of this initiative and do the math, it is expected that they could abandon the State of CT altogether or add on massive costs which would further stifle recovery and values on all real estate with dire consequences to all.

Full settlement authority is vague and extremely problematical in the language of this bill. While the homeowner has reasonable time to review the offer, the lender cannot enter the mediation with pre-determined parameters. Ranges of authority to make a deal usually mean how much loss is the lender is willing to take on the principal, let alone providing property insurance during this period and other expenses and losses incurred. This is not always concrete and the lenders should be allowed equal time to review that is equal to the borrower - which is not provided as written. There needs to be time for a financial institution to seek outside counsel - particularly since they have the lion's share of the investment.

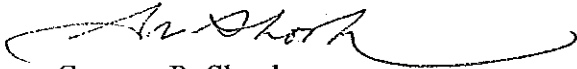
The proposed mediation fee on state chartered banks is unnecessary and unfair. My understanding is that the Mediation program was funded last year through surplus DOB funds through 2014, with the expectation that the volume of foreclosures will decrease so that the program won't be necessary by that point. While the banking industry has always supported the goal of the mediation program, considering the delays and statewide negative consequences that just you've heard about from other groups - maybe it needs to be significantly revamped with truly unbiased arbiters that aren't one-sided borrower advocates. But back to the state chartered bank fee issue. From a public policy perspective I would hope that this Committee would not single out any subgroup of an industry for mandatory fees and I and the entire industry strongly oppose the concept of a mediation fee.

Banks currently report to their board the foreclosed and delinquent properties; place that information in our quarterly call reports which get posted on the FDIC web site for all to see. We also review our allowance for loan losses to determine based on current market conditions and the collateral of the loan whether we need to provide more money to cover the losses on these foreclosed properties. This process includes the cost to sell. Realtor's commissions, taxes, insurance, maintenance, upkeep; utilities all are included in a specific reserve calculation. All of

these reports are reviewed by the Connecticut Banking Department currently. We do not feel the bill needs to have the Banking Commissioner adopt new regulations and require additional reporting as the information is readily available. We do not need the State adding additional burdens to already an onerous process. These reports could be garnered by a banking department analyst from current information and are completely unnecessary as a regulation. As an alternative, workable solution, loans sold to Fannie and Freddie could be targeted thus leaving community banks exempted from this legislation if the loans remain in their portfolios. This is an unfortunate attempt to drag in portfolio lenders who have avoided selling their loans to the government sponsored enterprises.

In conclusion, while I think the mediation program is slow and inefficient it is infinitely better than this bill. This is unworkable and should be voted down.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Gregory R. Shook", with a long, sweeping horizontal line extending to the right.

Gregory R. Shook
Essex Savings Bank
President & CEO
Connecticut Citizen